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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,984	01/13/2004	Garrett N. Ford	122142.00009	2249

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EXAMINER
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NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/755,984

Applicant(s)

FORD, GARRETT N.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "40" has been used to designate both strap and protrusion/projection. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word "means" is preceded by the word(s) "wall" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as

required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1,2,4,5,7,10-12,14-16,18,19** are rejected under 35 U.S.C. 102(b) as being anticipated by Dallmer (US 4744422).

For claim 1, Dallmer teaches an article of footwear for an animal comprising: a support 10 for a leg of the animal and for bearing against the ground; and an enclosure 11,16 for enclosing at least part of the leg of the animal, said enclosure including wall means 11 on said support, and said enclosure further including a pair of tongues (the flap where refs. 12 & 16 are pointing at and refs. 30,34,35) on said support movable relative to said wall means.

For claim 2, Dallmer teaches wherein said tongues are located diametrically opposite one another.

For claim 4, Dallmer teaches the enclosure further comprising at least one band of elastic material 37,23,22 connected to one of said tongues and to said wall means.

For claim 5, Dallmer teaches wherein one tongue has a pair of opposed edges and the one band 22,23 joins one of the edges to the wall means, the enclosure

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including an additional band of elastic material 22,23 (on the other side) joining the other of the edges to the wall means.

For claim 7, Dallmer teaches a protrusion 36.

For claim 10, Dallmer teaches means 20,21,22,23,37,37a for tightening the enclosure around the leg of the animal.

For claim 11, Dallmer teaches a cover 23 for at least a part of the tightening means.

For claim 12, Dallmer teaches wherein said tightening means comprises a tightening element 37,22 which engages said enclosure and an operating element 21 designed to exert a force on said tightening element so as to draw said enclosure around the leg of the animal.

For claim 14, Dallmer teaches wherein the operating element comprises a rotary mechanism or button 21.

For claim 15, Dallmer teaches wherein the operating element is mounted on the wall means.

For claim 16, Dallmer teaches wherein the operating element is mounted on one of the tongues.

For claim 18, see claims 1 & 4.

For claim 19, see claim 5.

6. **Claims 1-6,10,18,19** are rejected under 35 U.S.C. 102(b) as being anticipated by Kos (US 2986823).

For claim 1, Kos teaches an article of footwear for an animal comprising: a support 13,14 for a leg of the animal and for bearing against the ground; and an enclosure 10 for enclosing at least part of the leg of the animal, said enclosure including wall means 11,12 on said support, and said enclosure further including a pair of tongues (the front and back flaps where refs. 22,23,12,a are pointing at and refs. 30,34,35) on said support movable relative to said wall means.

For claim 2, Kos teaches wherein said tongues are located diametrically opposite one another.

For claim 3, Kos teaches wherein said enclosure further comprises at least one band of pleated material (each section 18 or 16) connected to one of said tongues and to said wall means.

For claim 4, Kos teaches the enclosure further comprising at least one band of elastic material 17 connected to one of said tongues and to said wall means.

For claim 5, Kos teaches wherein one tongue has a pair of opposed edges and the one band joins one of the edges to the wall means, the enclosure including an additional band of elastic material joining the other of the edges to the wall means (see figs. 7 & 8 for close up of how the band 17 connects the tongues together with the wall).

For claim 6, see claim 3.

For claim 10, Kos teaches means 21,20c,17 for tightening the enclosure around the leg of the animal.

For claim 18, see claims 1 & 4.

For claim 19, see claim 5.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 8,9,17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dallmer (as above) in view of Glass et al. (US 5661958).

For claims 8 & 9, Dallmer is silent about the protrusion being a strap or a loop. Glass et al. teach a horse boot having a strap or loop 47. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a strap or loop as taught by Glass et al. in the boot of Dallmer in order to pull up the back of the boot as the boot is mounted on the horse (col. 4, lines 22-29 of Glass et al.).

For claim 17, Dallmer is silent about the tightening element passing through the wall means and is slidable relative thereto. In addition to the above, Glass et al. teach a tightening element 1 passing through the wall means and is slidable relative thereto (see figs. 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the tightening element of Dallmer pass through the wall means as taught by Glass et al. in order to prevent the tightening element from being exposed to the environment and possibly may be snagged by objects on the ground such as debris or a branch or the like.

9. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over Dallmer (as above) in view of MacDonald (US 6694713). Dallmer is silent about a cover.

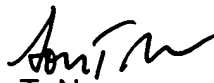
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MacDonald teaches a cover 19 for a horse boot. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a cover as taught by MacDonald to cover the boot, which includes the operating element, of Dallmer in order to prevent damage to the operating element.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 703-305-0765. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn